



Montana Environmental Trust
Group, LLC Trustee of the Montana
Environmental Custodial Trust PO Box 1230,
East Helena, Montana 59635
Telephone: (406) 227-1242

June 20, 2011

CERTIFIED MAIL 7009 0820 0000 6612 1325
RETURN RECEIPT REQUESTED

Betsy Burns
RCRA Project Officer
EPA Region VIII
Montana Office
10 West 15th St., Suite 3200
Helena, MT 59626

RE: Consent Decree Civil Action No. CV 98-3-H-CCL East Helena Site
Work Performed in May 2011; Progress Report

Dear Betsy:

On May 5, 1998, ASARCO and the United States Environmental Protection Agency (EPA) entered into a Consent Decree (the Decree) to further the objectives of the Resource Conservation and Recovery Act (RCRA) and the Clean Water Act (CWA). On December 9, 2009, the Montana Environmental Custodial Trust (the Custodial Trust) was established as part of the larger ASARCO bankruptcy settlement agreement to provide operational, remediation and revitalization activities at the Montana Sites, which include the East Helena Smelter. The United States and the State of Montana are the two designated beneficiaries of the Custodial Trust.

Pursuant to the Settlement Agreement, a motion to reopen the Decree and substitute the Custodial Trust for ASARCO was granted by the US Federal District Court in January 2010. As of the date of this report, EPA, DOJ and the Custodial Trust are in the process of finalizing a First Modification to the Decree that will conform to the

terms of the Settlement Agreement. The Custodial Trust submits this progress report under the Decree subject to and pending the finalization of the First Modification to the Decree. Nothing herein, or in the substitution, should be interpreted or construed to constitute an unqualified acceptance of the terms of the Decree by the Custodial Trust or a waiver or release of its right to a modification of the Decree consistent with the Settlement Agreement. The Custodial Trust reserves all rights to object to those parts of the Decree that it reasonably believes are inconsistent with the Settlement Agreement. As with this report, future progress reports prescribed by the Decree, as so amended, will be submitted to EPA by the Custodial Trust.

Section XII of the Decree (Reporting: Corrective Action) requires submittal of certified monthly progress reports to EPA to describe the actions taken to achieve compliance with the Decree. The following describes those activities that have occurred or are related to activities that took place during May 2011. As to any actions performed by ASARCO, the Custodial Trust's predecessor-in-interest, the descriptions are based on information and belief only.

SECTION 1. DESCRIPTION OF ACTIVITIES FOR MAY 2011

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
Draft Phase II RFI	Hydrometrics / GSI	METG provided the draft Phase II RFI to the Beneficiaries on May 20 th for their review and comment.	No data submittal	Database problems were encountered, budget and schedule issues	90%
Field Sampling Event (FSAP)	Hydrometrics	Second quarter field sampling event continued through May. Surface flow and creek stage measurements collected along 22 Prickly Pear Creek locations. Southwest flow/stage ponds/ditches at eleven (11) locations. Surface water level monitoring at 88 residential and monitoring wells.	No data submittal	No problems encountered	80%
Data Management Plan (DMP) and Quality Assurance Project Plan (QAPP)	Hydrometrics	EPA requested that formal procedures be developed to review and verify all data entered into the database.	Revised DMP and QAPP. Scope of work will be completed by June 1	No problems encountered	0%
Selenium Plume Front Investigation	Hydrometrics	EPA requested the development of a scope of work for sampling and analyzing domestic wells down-gradient of the Selenium plume.	Downgradient Residential Well Sampling scope of work will be completed by June 24	No problems encountered	0%
Corrective Measures Study (CMS)	CH2M-Hill	CH2M-Hill developed draft CMS Work Plan Goals and Objectives.	No data submittal	No problems encountered	10%
Baseline Ecological Risk Assessment (BERA)	Gradient	EPA Risk Assessor approved Gradient's table of report corrections.	No data submittal	No problems encountered	90%
Consent Decree Modification	METG/DOJ	Modification #1 to the 1998 CD in final review between the Custodial Trust and USDOJ.	No data submittal	No problems encountered	95%

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
Groundwater Technical Working Group (TWG) – Groundwater Model Work Plan	METG/EPA/MDEQ/MDOJ	Groundwater model work plan was distributed to EPA and the State on May 13. The work plan sets forth the general approach to the modeling. GSI preparing a scope of work for next steps, which include modeling to support interim measures and AOPC analysis.	No data submittal	No problems encountered	100%
Corrective Action Management Unit (CAMU)	CH2M-Hill	CH2M-Hill performance evaluation of CAMU 1. Technical inspection and report at least every five years as required in the EPA-approved post closure plan for CAMU 1. The technical inspection was conducted May 18 & 19. Inspection report due June 15.	No data submittal	No problems encountered	80%
Water Treatment Plant	METG	The HDS water treatment plant operated May 15 – 19.	DMR for April 2011 submitted to MDEQ and EPA.	No problems encountered	100%
Flood Planning Control	METG	Concrete block barriers placed as a temporary structure between Prickly Pear and Lower Lake in the event that Prickly Pear Creek overflows into Lower Lake during spring runoff. Sand bags staged by block barriers in preparation of a flood event. Underflow gates opened May 25 th .	No data submittal	No problems encountered	90%
Property Use/ Development	METG	<ol style="list-style-type: none"> 1. American Chemet draft lease of warehouse space reviewed by beneficiaries. 2. Metawise Group toured and sampled the slag pile on May 31. Metawise is interested in slag for reprocessing in China. 3. Outside counsel preparing general Agricultural and Grazing Leases. 4. Zanetti Land Use Agreement renewal for laydown area and East Fields to complete CERCLA cleanup work. 5. H&H Metals meeting with Custodial Trust for slag sales. 6. EPA-sponsored design charrette for East Helena on May 24 	No data submittal	No problems encountered	90%

		<ol style="list-style-type: none">7. NREL-EPA Grant to evaluate the feasibility of renewable energy facility on Custodial Trust property8. City of East Helena request for conveyance, easements and other parcels.			
Community & Local Meetings	METG	<ol style="list-style-type: none">1. LEAP & ICs meetings2. East Helena City Council Meeting	No data submittal	No problems encountered	-

SECTION 2. ACTIVITIES SCHEDULED FOR JUNE 2011

Task	Performing Entity	Description
Data Management Plan (DMP) and Quality Assurance Project Plan (QAPP)	Hydrometrics	Develop and implement formal Quality Assurance procedures for review and verification of data stored in the Enviro Data database. DMP and QAPP will be revised and reissued to incorporate these changes and current data collection activities
Downgradient Residential Well Sampling	Hydrometrics	Sample 56 residential wells down-gradient of the off-site Selenium plume.
Source Conceptual Models	GSI & Hydrometrics	Complete site conceptual models for the primary sources will be developed for the CMS and remedial designs. South Plant Water Balance, off-site Selenium, and Slag.
Corrective Measures Study (CMS)	CH2M-Hill	CMS Work Plan Development Draft Goals and Objectives presentation on June 13.
Property Use / Development	East Helena	RFP for land use opportunities and constraints analysis.
Monthly inspections of six temporary cap areas	TS Consulting	Monthly inspections of the temporary cap areas will continue in June.
CAMU Inspections	TS Consulting	Monthly inspections of CAMU #1 and weekly inspections of CAMU #2 will continue in June 2011. The leachate and/or leak detection sumps for CAMU #1 were pumped and volumes recorded during technical inspection May 18 and 19. CAMU #2 sumps were not pumped in May.
Water Treatment Plant	METG	Operate the water treatment plant as needed.
EHECTIC Meeting	EPA/MDEQ	Bi-monthly stakeholder meeting on June 3.
LEAP & ICs Meeting	L&C County/EPA	Monthly meeting on June 8.
Beneficiaries Meeting	EPA/MDEQ/MDOJ/METG	Monthly beneficiaries meeting June 16.

Section 3. Describe and estimate the percentage of studies completed.

The following projects or studies are 100% complete:

- Pump and treat pilot scale testing for source area reduction of groundwater contamination;
- Jar testing (Phase I) of the East Helena PRB materials testing program;
- Slurry wall construction in the former acid plant sediment drying area;
- Interim capping project for the following areas:
 - former acid plant sediment drying area
 - dross area
 - sinter plant area
 - gas cleaning and contact sections of the acid plant
 - thaw house
 - blast furnace baghouse
 - blast furnace flue
 - Monier flue
 - sample mill
 - crushing mill
 - hopto pad
 - storage bins and gallery
 - acid dust facility
 - sinter stocking building
 - highline railroad
 - abandoned and new breaking floor buildings
 - groundwater sump
 - sinter plant, acid plant, and blast furnace baghouse stacks.
- January 2008 CAMU Phase 2 Cell Design Analyses, CAMU Phase 2 cell construction, and placement of 2008 and 2009 wastes within the CAMU Phase 2 cell;
- Slurry wall construction in the former speiss-dross plant area;
- Historic recordation tasks associated with the 2008 and 2009 Cleaning and Demolition Work Plans;
- 2008 Interim Measures Work Plan Addendum, Blast Furnace Flue and Monier Flue Cleaning and Demolition and Demolition Footprint Exposed Areas Soil Sampling obligations;

- Submittal of the draft Baseline Ecological Risk Assessment Work Plan (June 2009) and Field Sampling and Analysis Plan (FSAP);
- Submittal of the draft Human Health Risk Assessment Work Plan (October 2009);
- Submittal of the draft Phase II RCRA Facility Investigation Site Characterization Work Plan (September 2009);
- Submittal of the final Phase II RCRA Facility Investigation Site Characterization Work Plan (May 2010);
- Submittal of the 2010 Post RI/FS Groundwater and Surface Water Sampling and Analysis Plan (May 2010);
- Submittal of the Phase II RCRA Facility Investigation Field Sampling and Analysis Plan (June 2010);
- Submittal of the Project Management Plan (June 2010); and
- Submittal of the Borehole Abandonment Plan (June 2010)

Section 5. Describe actions being taken to address problems.

There were no actions required to address problems associated with the Decree.

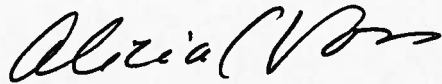
Section 6. Identify changes in key personnel during the period.

There were no significant changes in key personnel during the period.

Section 7. Describe the status of financial assurance mechanisms, including whether any changes have occurred, or are expected to occur which might affect them, and the status of efforts to bring such mechanisms back into compliance with the requirements of this Decree.

The Custodial Trust received funds for Environmental Actions earmarked for site clean-up in connection with the ASARCO bankruptcy settlement. The Custodial Trust deposited the funds in a segregated East Helena Clean-up account and is investing and managing the funds in accordance with the provisions of the Settlement Agreement. Issues related to the CAMU trust are stilling being resolved between the beneficiaries and ASARCO.

Please do not hesitate to contact me if you have any questions.

A handwritten signature in black ink, appearing to read 'Alicia C. Voss'.

Alicia C. Voss
Lead Project Manager
Montana Environmental Trust Group
Trustee of the Montana Environmental Custodial Trust

cc: Denise Kirkpatrick—MDEQ
Randy Breeden—EPA 8
Chuck Figur—EPA 8

CERTIFICATION
PURSUANT TO U.S. v ASARCO INCORPORATED
(CV-98-3-H-CCL, USDC, D. Montana)

"I certify under penalty of law that this document and all attachments, were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."



Alicia C. Voss
Lead Project Manager
Montana Environmental Trust Group, LLC.
Trustee of the Montana Environmental Custodial Trust